



Order Filed on November 22, 2021

by Clerk

Case No. 20-21428-CMG
U.S. Bankruptcy Court
District of New Jersey

Chapter: 13

Hearing Date:
November 17, 2021

Hon. Judge:
Christine M. Gravelle

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-2(c)

Friedman Vartolo LLP
85 Broad Street- Suite 501
New York, New York 10004
bankruptcy@friedmanvartolo.com
T: (212) 471-5100
F: (212) 471-5150

Attorneys for Fay Servicing, LLC as servicer for
Wilmington Savings Fund Society, FSB, not in its
individual capacity but solely as Owner Trustee of
CIM Trust 2021-NR2

In Re:

Todd Swillinger
Kathleen Y. Fong-Swillinger

Debtor(s)

CONSENT ORDER RESOLVING MOTION TO VACATE STAY

The consent order set forth on the following pages, numbered two (2) through three (4), is hereby
ORDERED.

DATED: November 22, 2021

A handwritten signature in black ink, reading "Christine M. Gravelle".

Honorable Christine M. Gravelle
United States Bankruptcy Judge

Applicant: Fay Servicing, LLC as servicer for Wilmington Savings Fund Society, FSB, not in its individual capacity but solely as Owner Trustee of CIM Trust 2021-NR2

Applicant's Counsel: Friedman Vartolo LLP

Debtor's Counsel: Robert C. Nisenson, LLC

Property (Collateral): 99 Bayberry Drive, Somerset, NJ 08873

Relief Sought:

- Relief from Automatic Stay

For good cause shown, it is **ORDERED** that Applicant's Motion is resolved, subject to the following conditions:

1. Status of post-petition arrearages:

- ☒ The Debtor(s) is/are overdue for 6 months, from May 2021 to October 2021.
- ☒ The Debtor(s) is/are overdue for 6 payments at \$1,585.97 per month.
- ☐ The Debtor(s) is/are due for _____ in accrued late charges.
- ☒ The Debtor(s) is/are due for \$588.00 in attorney's fees and costs.
- ☒ Applicant acknowledges suspense funds in the amount of \$1,548.06.

Total Arrearages Due: \$8,555.76

2. Debtor(s) must cure all post-petition arrearages, as follows:

- ☐ Immediate payment shall be made in the amount of _____. Payment shall be made no later than _____.
- ☒ Beginning on November 1, 2021, regular monthly mortgage payments shall continue to be made.
- ☐ Beginning on _____, additional monthly cure payments shall be made in the amount of _____ for _____ months.
- ☐ The amount of \$8,555.76 shall be capitalized in the debtor's Chapter 13 plan. Said amount shall be set up on Trustee's ledger as a separate Claim. Debtor(s) shall file a Modified Plan within 10 days from the entry of this Order to account for the additional arrears to be paid to the secured creditor via Chapter 13 Plan and to adjust monthly payments to the Chapter 13 Trustee accordingly.

3. Payments to the Secured Creditor shall be made to the following address:

Payments: Fay Servicing, LLC
PO Box 814609
Dallas, TX 75381

4. In the event of default:

☒ Should the Debtor(s) fail to make any of the above captioned payments, or if any regular monthly mortgage payment commencing after the cure of the post petition delinquency is more than thirty (30) days late, counsel shall file a Certification of Default with the Court, a copy of the Certification shall be sent to the Chapter 13 Trustee, the Debtor(s), and Debtor('s) attorney and the court shall enter an Order granting relief from the Automatic Stay.

☒ In the event the Debtor(s) converts to a Chapter 7 during the pendency of this bankruptcy case, the Debtor(s) shall cure all arrears within ten (10) days from the date of conversion in order to bring the loan contractually current. Should the Debtor(s) fail to bring the loan contractually current, counsel shall file a Certification of Default with the Court, a copy of the Certification shall be sent to the Chapter 13 Trustee, the Debtor(s), and Debtor('s) attorney and the court shall enter an Order granting relief from the Automatic Stay.

☒ This agreed order survives any loan modification agreed to and executed during the instant bankruptcy. If any regular mortgage payment due after the execution of a loan modification is more than thirty (30) days late, counsel shall file a Certification of Default with the Court, a copy of the Certification shall be sent to the Chapter 13 Trustee, the Debtor(s), and Debtor('s) attorney and the court shall enter an Order granting relief from the Automatic Stay

5. Award of Attorney's Fees:

The Applicant is awarded attorney's fees of \$400.00 and costs of \$188.00.

The fees and costs are payable:

- ☒ Attorney's fees and costs have been included in the Consent Order.
- ☐ Through the Chapter 13 plan. The fees/costs shall be set up as a separate claim to be paid by the Standing Trustee and shall be paid as an administrative claim.
- ☐ To the Secured Creditor within _____ days
- ☐ Attorney's fees are not awarded.
- ☐ Movant reserves its right to file a Post-Petition Fee Notice for fees and costs incurred in connection with the Motion for Relief.

The undersigned hereby consent to the form and entry of the foregoing order.



Robert C. Nisenson, Esq.
Attorney for Debtor

/s/ Jonathan Schwalb, Esq.
Jonathan Schwalb, Esq.
Attorney for Secured Creditor